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District of Arizona
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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

United States of America,
Plaintiff,

v.

2006 International 4000 Tow Truck,
VIN: 1HTMMAAL96H230279,
Defendant.

CV

**STIPULATED COMPLAINT
FOR FORFEITURE
IN REM**

COMES NOW the United States of America, by and through its undersigned counsel, in the civil cause of forfeiture and alleges on information and belief:

1. That this is a civil action in rem brought to enforce the provisions of Title 8, United States Code, Section 1324(b)(1) for the forfeiture of a 2006 International 4000 Tow Truck, VIN: 1HTMMAAL96H230279, involved in the offenses of 1) Title 8, United States Code, Section 1324(a)(1)(A)(v)(I), that is, engaging in any conspiracy to commit any of the acts in Title 8, United States Code, Section 1324(a)(1)(A); and 2) Title 8, United States Code, Section 1324(a)(1)(A)(v)(II), aiding or abetting the commission of any of the acts in Title 8, United States Code, Section 1324(a)(1)(A).

2. That this Court has jurisdiction pursuant to Title 28, United States Code, Sections 1345 and 1355(a).

3. That this Court has in rem jurisdiction pursuant to Title 28, United States Code, Section 1355(b).

1 4. Venue is proper in this district pursuant to Title 28, United States Code, Section
2 1355(b)(1) because the acts or omissions giving rise to the forfeiture occurred in this district,
3 and pursuant to Title 28, United States Code, Section 1395 because the property is located
4 in this district.

5 5. That the defendant, a 2006 International 4000 Tow Truck, VIN:
6 1HTMMAAL96H230279, was seized on Interstate 19 near Nogales, Arizona and is
7 presently in the custody of the U.S. Customs and Border Protection within the jurisdiction
8 of this Court and will remain therein throughout the course of these proceedings.

9 7. That the United States and putative claimant, Cecilio Valdez-Hernandez, Jr.,
10 have reached an agreement, the terms of which are embodied in a Stipulation for Forfeiture,
11 attached to the complaint. Pursuant to the terms of that agreement, the parties have agreed to
12 the forfeiture of the 2006 International 4000 Tow Truck, VIN: 1HTMMAAL96H230279,
13 after the appropriate procedural steps are taken.

14 8. **Basis for Forfeiture**

15 On March 8, 2019, Homero Cuevas was driving a 2006 International 4000 Tow
16 Truck, VIN: 1HTMMAAL96H230279 (hereinafter “defendant vehicle”), with a 2007
17 Chevrolet Silverado being towed on a flat bed when he attempted to pass through Interstate
18 19 Border Patrol checkpoint. In secondary, an x-ray performed on both vehicles revealed
19 three individuals hidden inside of the 2007 Chevrolet Silverado. After the three (3)
20 individuals were questioned, it was determined that they were citizens of Mexico without
21 legal status or documents to be in the United States.

22 United States Border Patrol Agent Jorge Rodriguez interviewed Homero Cuevas
23 (hereinafter “Cuevas”) after his arrest. Cuevas told agents he was hired by “Cecilio” to
24 transport three (3) illegal aliens from the Pilot Gas Station in Rio Rico, Arizona to Tucson,
25 Arizona. Cuevas stated that he was going to be paid \$1,000 to transport the illegal aliens.
26 Cuevas met Cecilio, who was operating the defendant vehicle, near the casino on Valencia
27 Road in Tucson and followed him to Nogales in his truck.
28

1 Cuevas further stated that he and Cecilio stopped at the Pilot Gas Station near
2 Nogales, Arizona and dropped off his truck so he could travel in the defendant vehicle with
3 Cecilio. They then traveled to Nogales, Arizona to pick up the 2007 Chevrolet Silverado
4 that they were hired to transport back to California. After they picked up the 2007 Chevrolet
5 Silverado, they drove back to the Pilot Gas Station and they agreed that Cecilio would drive
6 Cuevas' truck back to Tucson while Cuevas would drive the defendant vehicle to Tucson.
7 Once at the Pilot Gas Station, Cuevas went into the store while Cecilio stayed near the
8 defendant vehicle to relay to him, by cellphone, when it was safe for him to return to the
9 defendant vehicle.

10 Once Cecilio told Cuevas he could exit the Pilot Gas Station, Cuevas got back into
11 the defendant vehicle and proceeded onto Interstate 19 towards the Border Patrol checkpoint.

12 Wherefore, plaintiff prays that due process issue to enforce the forfeiture of the 2006
13 International 4000 Tow Truck, VIN: 1HTMMAAL96H230279; that due notice be given to
14 all parties to appear and show cause why the forfeiture should not be decreed; and prays that
15 the 2006 International 4000 Tow Truck, VIN: 1HTMMAAL96H230279 be condemned and
16 forfeited to the United States of America, and delivered to the custody of the U.S. Customs
17 and Border Protection for disposition according to law; and that the United States of America
18 be granted such other relief as this Court may deem just and proper, together with the costs
19 and disbursements of this action.

20 Respectfully submitted this 24th day of June, 2019.

21
22 MICHAEL BAILEY
23 United States Attorney
24 District of Arizona

25 *S/ Reese V. Bostwick*
26 REESE V. BOSTWICK
27 Assistant U.S. Attorney
28


VERIFICATION

I, Border Patrol Agent Jorge Rodriguez, hereby verify and declare under penalty of perjury that I am a Border Patrol Agent with the United States Customs and Border Protection, that I have read the foregoing Complaint for Forfeiture In Rem and know the contents thereof, and that the matters contained in the Complaint are true to my own knowledge, except that those matters herein stated to be alleged on information and belief and as to those matters I believe them to be true.

The sources of my knowledge and information and the grounds of my belief are the official files and records of the United States, information supplied to me by other law enforcement officers, as well as my case, together with others, as a Border Patrol Agent of the U.S. Customs and Border Protection.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: June 27, 2019.



JORGE RODRIGUEZ
Border Patrol Agent
U.S. Customs and Border Protection

JS 44 (Rev. 02/19)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

United States of America

(b) County of Residence of First Listed Plaintiff Pima
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS

2006 International 4000 Tow Truck, VIN: 1HTMMAAL96H230279

County of Residence of First Listed Defendant Pima
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input checked="" type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
8 U.S.C. §1324(b)(1)

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE
06/24/2019SIGNATURE OF ATTORNEY OF RECORD
S/ Reese V. Bostwick

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

1 MICHAEL BAILEY
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2 District of Arizona
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Attorneys for Plaintiff

7 UNITED STATES DISTRICT COURT
8 DISTRICT OF ARIZONA
9

10 United States of America,

11 Plaintiff,

12 v.

13 2006 International 4000 Tow Truck,
VIN: 1HTMMAAL96H230279,

14 Defendant.
15
16

CV

STIPULATION FOR FORFEITURE

17 The United States of America, by and through its undersigned counsel, and Cecilio
18 Valdez-Hernandez, Jr., by and through his attorney, Rafael Gallego, stipulate and agree to
19 the forfeiture of a 2006 International 4000 Tow Truck, VIN: 1HTMMAAL96H230279
20 (hereinafter "defendant vehicle") as follows:

21 1. That Cecilio Valdez-Hernandez, Jr., and the United States of America have
22 entered into a settlement agreement as to the defendant vehicle, which is subject of this civil
23 forfeiture action.

24 2. That Cecilio Valdez-Hernandez, Jr., and the United States of America further
25 consent to the entry of a Stipulated Judgment for Forfeiture, filed hereafter, consistent with
26 the terms of this Stipulation.

27 3. That Cecilio Valdez-Hernandez, Jr., states he is the sole owner of the defendant
28 vehicle, which is in the possession of the United States Custom and Border Protection.

1
2 4. That Cecilio Valdez-Hernandez, Jr., agrees to waive the publication requirement
3 of Rule G(4)(a) of the Supplemental Rules of Admiralty or Maritime Claims and Asset
4 Forfeiture Actions.

5 5. That Cecilio Valdez-Hernandez, Jr., agrees to forfeit all right, title and interest
6 in the defendant vehicle, and it shall be condemned and forfeited to the United States, and
7 disposed of according to law.

8 6. That the proceeds of the sale of the defendant vehicle, shall be applied to the
9 payment of all seizure, maintenance and sale expenses incurred by the U.S. Customs and
10 Border Protection and their substitute custodian. The remainder of the proceeds, if any, shall
11 be divided equally between Cecilio Valdez-Hernandez and the government.

12 7. That Cecilio Valdez-Hernandez, Jr., shall not be entitled to costs or attorney fees.

13 8. That Cecilio Valdez-Hernandez, Jr., agrees not to contest the issue of whether
14 there was probable cause for the seizure and forfeiture of the defendant vehicle.

15 9. That Cecilio Valdez-Hernandez, Jr., knowingly and voluntarily waives all
16 constitutional, legal, and equitable defenses to the forfeiture of the defendant vehicle in any
17 proceeding. Cecilio Valdez-Hernandez, Jr., agrees to waive any claim or defense under the
18 Eighth Amendment to the United States Constitution, including any claim of excessive fine,
19 to the forfeiture of the defendant property by the United States.

20
21 ///

22 ///

23 ///

24 ///

25 ///

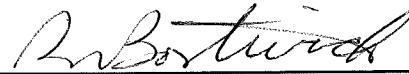
26 ///

27 ///

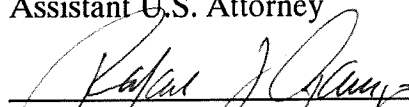
1 10. That Cecilio Valdez-Hernandez, Jr., shall hold the United States, its agents, and
2 employees harmless from any and all claims which might result from the forfeiture of the
3 defendant vehicle.

4 MICHAEL BAILEY
5 United States Attorney
6 District of Arizona


7 DATED: 6-24-19

8 
9 REESE V. BOSTWICK
10 Assistant U.S. Attorney

11 DATED: 6/21/19

12 
13 RAFAEL GALLEGO
14 Attorney for Cecilio Valdez-Hernandez, Jr.

15 DATED: 6-21-2019

16 
17 CECILIO VALDEZ-HERNANDEZ, JR.
18 Claimant